

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

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| DUANE & VIRGINIA LANIER TRUST, Individually<br>and on Behalf of All Others Similarly Situated,<br><br>Plaintiffs,<br><br>vs.<br><br>SANDRIDGE ENERGY INC., et al.,<br><br>Defendants. | Case No. CIV-15-00634-M |
|---|-------------------------|

**RESPONSE TO PLAINTIFFS' NOTICE OF NON-OPPosition**

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Defendants SandRidge Energy Inc. (“SandRidge”), Tom L. Ward, James D. Bennett and Matthew K. Grubb (“Officer Defendants”), and SandRidge Mississippian Trust I (“Trust I”) (collectively, the “Exchange Act Defendants”) respectfully submit this response to Plaintiffs’ July 28, 2017 Notice of Non-Opposition (ECF 126).

While the Exchange Act Defendants agree that the Supreme Court’s intervening decision in *California Pub. Employees’ Ret. Sys. (“CalPERS”)* v. ANZ Sec., Inc., 137 S. Ct. 2042 (2017) requires the dismissal of Plaintiffs’ claims under the Securities Act of 1933, the Exchange Act Defendants oppose Plaintiffs’ request to file a Second Amended Complaint. A Second Amended Complaint is unnecessary, and rather than “streamline” the Court’s consideration of Defendants’ motions to dismiss, as Plaintiffs’ contend, it would only prolong and complicate the process. Plaintiffs’ suggestion that the parties rebrief, and the Court reconsider, motions to dismiss that are already fully submitted suggests a “dilatory motive” on Plaintiffs’ part, which is a sufficient reason to deny their request. *Frank v. U.S. W., Inc.*, 3 F.3d 1357, 1365 (10th Cir. 1993) (court may refuse leave to amend on a showing of “bad faith or dilatory motive”).

Plaintiffs’ request is also improper because they have reserved the right to raise new factual and legal allegations in their Second Amended Complaint. While Plaintiffs state that they “*do not anticipate* that they will raise allegations in their Second Amended Complaint which they have not raised before,” they stop well short of any commitment not to plead new allegations. ECF 126 at 2 (emphasis added). Given that Plaintiffs have already had multiple opportunities to state a claim — including being granted leave to supplement their complaint in the midst of briefing the pending motions to dismiss (*see*

ECF 119) — Plaintiffs should not be given yet another opportunity to raise new allegations.

Finally, Plaintiffs' request to file a Second Amended Complaint fails to comply with Local Civil Rule 15.1 which requires, among other things, that Plaintiffs attach the proposed pleading as an exhibit to their request and state whether any party objects to the amendment. Plaintiffs failed to confer with Defendants before filing their Notice of Non-Opposition; if they had, the Exchange Act Defendants would have opposed any suggestion that Plaintiffs be given leave to file yet another complaint. *See Berneike v. CitiMortgage, Inc.*, 708 F.3d 1141, 1151 (10th Cir. 2013) (upholding denial of leave to amend where party “failed to give ‘adequate notice to the district court and to the opposing party of the basis of the proposed amendment.’”)(citation omitted).

For these reasons, the Exchange Act Defendants respectfully request that the Court dismiss Plaintiffs' Securities Act claims under *CalPERS v. ANZ* and deny Plaintiffs' request to file a Second Amended Complaint.

Dated: August 2, 2017

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